



Legislation Summary:

An Act relative to improving training for child advocates to recognize the indicators of domestic violence

Initial bill number: [S862](#) (Bill numbers will change as legislation proceeds.)

Sponsors: Sen. Linda Dorcena Forry

This bill would require that each child custody case which is assigned to a guardian ad litem be screened, including a search of the records contained within the statewide domestic violence record keeping system, to determine whether the parties have a civil or criminal record involving domestic violence prior to the custody decision being rendered. It requires that appointed guardian ad litem have completed a minimum of 24 hours of professional development training for certification and at least eight hours of training on the indicators of domestic violence from an approved domestic violence organization. It also provides that formal complaints relative to the competency of an appointed guardian ad litem may be filed by motion and the hearing on such motion will not be held in public.

Currently, the appointment of an advocate for a child, who is customarily an attorney, physician or social worker, does not ensure adequate understanding of the dynamics of domestic violence on the part of that advocate. In 2001, the Massachusetts Senate Post Audit and Oversight Committee issued a report detailing the shortcomings of the guardian ad litem (GAL) system in the Commonwealth, including inadequate training, failure to consider domestic violence in custody and visitation evaluations, and no clear complaint process. Unfortunately, little has changed since that report.

A 2013 Massachusetts study found that 74%-87% of disputed custody cases had red flags for domestic violence. Another study found that 75% of disputed custody cases included allegations of domestic violence and more than half of disputed custody cases had documented evidence of domestic violence. However, the courts made note of the substantiated violence in less than one-fourth of the cases where presented and domestic violence was considered of significance in a small minority of cases.

The 2013 study of Massachusetts courts noted their lack of capacity to detect abuse. Many GALs adhere to older, disproven theories that domestic violence is a function of mental illness that can be diagnosed by inkblots and IQ testing. Evidence tells us you cannot identify an abuser or a victim or evaluate their parenting skills with a computer-scored personality test, and abusers are adept at minimizing and denying their behavior and shifting responsibility for their behavior to their victim. Many GALs believe that the risk of abuse ends upon separation, and a 2013 Judicial Bench Book advises officials to be skeptical of abuse allegations made at or after separation, in spite of data that many victims do not disclose abuse until after separation and 75% of domestic violence homicides happen after the victim has taken steps to get away.

League Position: The League of Women Voters of the United States “supports policies and programs at all levels of the community and government that promote the well-being, encourage the full development and ensure the safety of all children.” The League of Women Voters of Massachusetts (LWVMA) supports “mandatory separate counsel or advocate for children when custody is an issue in contested divorce actions,” and “ongoing training about domestic violence of all judges and court personnel.”